

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE: B-207168

DATE: January 18, 1983

MATTER OF: Canova Moving and Storage Company

## DIGEST:

1. When a bid is submitted on an all or none basis, the bidder does not have the option to decide after bid opening that it will accept award on less than the total number of items bid.
2. An all or none bidder is entitled to award when it offers a lower overall price for the combination of items or areas bid, even though its price for some of the individual items or areas may be higher than that of another bidder.

Canova Moving and Storage Company protests the Air Force's rejection of its bids for the preparation of property for movement and storage under invitation for bids (IFB) No. F04666-82-B-0007. We sustain the protest in part.

### All or None Bids

The IFB consisted of three separate schedules: outbound services (Schedule I), in-bound services (Schedule II) and intra-city and intra-area moves (Schedule III). Within each schedule there were up to ten separate geographic areas listed. The areas contained individual service items for which bids were requested. Bids were to be evaluated on the basis of the total aggregate price of all service items within an area of performance under a given schedule.

The IFB stated that award would be made "to the qualified low bidder by area under each of the individual schedules \* \* \*" and that the "Government reserves the right to make an award of two or more areas to a single bidder if such award will result in an overall lower estimated cost."

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Canova included three separate "all or none" qualifications in its bid, that is, all or none on Schedules I and II, Area I; Schedules I, II, and III, Areas VII, VIII and IX; and Schedules I, II, and III, Areas II, III, IV, V, VI and X. (The IFB did not invite bids on Areas II and X under Schedule III, and despite their inclusion in Canova's all or none qualification, the company did not bid on those areas.) Nothing in the IFB prohibited all or none bids.

In the Air Force's view, the evaluation and award provisions of the IFB required it to make award to the low bidder on each specific area under each schedule. While Canova was the low bidder on some of the areas included in its all or none bids, other bidders were low on the other areas. Since Canova's bids contained an all or none qualification, the Air Force concluded that Canova could not be considered for any award.

Canova argues that despite the fact it submitted an all or none bid, it should nevertheless receive award for those individual areas under each schedule on which its bid was low. The protester argues that the contracting activity here has followed such a practice in the past.

When a bid is submitted on an all or none basis, it means that the bidder will not accept an award unless it is low for every item included in the all or none bid, and the bidder does not have the option to decide after bid opening whether it will accept an award on less than the total number of items. See 45 Comp. Gen. 100 (1965). Therefore, the Air Force could not do as Canova suggests. Further, even if it has improperly done so in the past, that does not justify the perpetuation of such a practice. See Alan L. Crouch, B-207653, October 19, 1982, 82-2 CPD 345. This part of the protest is denied.

Canova also argues that its third all or none bid, on Schedules I, II, and III, Areas II, III, IV, V, VI and X, should have been accepted because its bid is lower in the aggregate than the combined low bids on the individual areas. We agree.

The Air Force has provided the following summary of Canova's all or none bid on the individual areas in question and the bids of those bidders who actually received the awards:

	<u>Awardees</u>	<u>Canova</u>
SCHEDULE I		
AREA II	\$ 6,100.00	\$ 5,390.00*
III	9,991.00	5,162.50*
IV	5,052.00*	5,710.00
V	24,260.00	17,032.50*
VI	8,200.00	5,835.00*
X	2,995.00	1,837.50*
SCHEDULE II		
AREA II	3,287.50*	3,572.50
III	8,380.00	5,577.50*
IV	4,375.00	3,817.50*
V	18,800.00	12,370.00*
VI	6,810.00	4,420.00*
X	2,670.00	2,182.50*
SCHEDULE III		
AREA II	--	--
III	528.00	405.00*
IV	340.00	267.50*
V	3,830.00	2,075.00*
VI	--	--
X	--	--
<u>TOTAL</u>	<u>\$105,618.50</u>	<u>\$ 75,655.00</u>

\*Low Bid

Where award on a combination of schedules (or items or areas) is contemplated, the award made must result in the lowest cost to the Government; to do otherwise would violate 10 U.S.C. § 2305(c) (1976), which requires that award be made on that bid which is most advantageous to the Government, price and other factors considered. See S. J. Groves & Sons Company, 55 Comp. Gen. 936 (1976), 76-1 CPD 205. Therefore, an all or none bidder is entitled to award when it offers a lower overall price for a combination of items, even though its price for certain of those items or areas may be higher than some other bidders price. Request of

Director, Supply Service, Veterans Administration for advance decision, B-180477, February 11, 1974, 74-1 CPD 63; see 52 Comp. Gen. 756 (1973). This is so notwithstanding the inclusion of a statement in the solicitation that award will be made by item or area. Id.

Consequently, we conclude that the Air Force's rejection of Canova's all or none bid on Schedules I, II and III, Areas II, III, IV, V, VI and X was improper. Canova's aggregate bid was almost \$30,000 lower than the total cost to the Government resulting from the individual awards actually made. Clearly, the award made was not that which was most advantageous to the Government, price and other factors considered.

#### Other Issues

Canova has also protested that one of the awardees should have been rejected because it lacked the required Interstate Commerce Commission operating authority for contract performance. The IFB provided that "Offerors without necessary operating authority may submit offers but the offerors shall \* \* \* be responsible for obtaining any necessary licenses and permits prior to award \* \* \*." We have held that such a requirement is properly a matter of responsibility. Allison-Hilliard Van & Storage, B-201621, February 9, 1981, 81-1 CPD 82. Our Office does not review protests of affirmative responsibility determinations absent a showing of fraud on the part of procuring officials or that the solicitation contains definitive responsibility criteria which have not been applied. Planned System International, Inc., B-200860, November 7, 1980, 80-2 CPD 348. Neither exception is applicable here.

Approximately 1 month after filing its initial protest here, Canova raised several additional issues, primarily concerning the propriety of certain changes made in the contract of one of the awardees. These issues were not addressed by the Air Force in its report, and in view of our disposition of the original protest, we do not consider it necessary to consider them further. See Fisher Berkeley Corporation; International Medical Industries, B-196432, B-196432.2, January 9, 1980, 80-1 CPD 26.

Recommendation

Although we are sustaining the protest in part, termination of the improperly awarded contracts and award to Canova is not feasible since the contracts will expire in less than 1 month. By letter of today, however, we are advising the Secretary of the Air Force of our findings in this decision and are recommending that appropriate action be taken to prevent a recurrence of an error of this nature in the future.

The protest is denied in part, sustained in part and dismissed in part.

*Milton F. Fowler*  
for Comptroller General  
of the United States